in the law are due to the very narrow distinctions drawn between the application of these two rules of intention. Compare *Angell v. Duke*, 32 L. T. Rep. N. S. 320, and *Mann v. Nunn*, 43 L. T. Rep. C. P. N. S. 241. Many courts hold that there must be some ambiguity upon the face of the written instrument before these rules can be applied. *Englemier v. Taylor*, 98 N. Y. 788; *Englehorn v. Reitlinger*, 122 N. Y. 76. This rule has, however, been criticised as fallacious in theory and practice. *4 Wig. Ev.* sec. 2431 (b). The difficulty in defining a collateral agreement is pointed out in *Hall v. Berton*, 38 N. Y. Supp. 979. Each case must stand upon its own particular circumstances. *4 Wig. Ev.* 2435.

INSURANCE—CONSTRUCTION OF POLICY—"FIRE" DEFINED.—WESTERN WOOLEN MILL CO. v. NORTHERN ASSUR. CO. OF LONDON, 139 Fed. 637.—*Held*, that the word "fire" as used in an insurance policy, in the absence of language showing a contrary intention, is to be given its ordinary meaning, which includes the idea of visible heat and light.

Such is the better and prevailing rule, although there was considerable conflict in the early cases. *Wood on Fire Ins.*, 237; *Gibbons v. German Ins. Co.*, 30 Ill. App. 263. But it is not necessary that there be ignition of the subject matter of the insurance. It is enough that the proximate cause of the damage be fire. *Bolestracci v. Fireman's Ins. Co.*, 34 La. Ann. 844. And where buildings were blown up under the direction of the chief magistrate of a city to prevent the spreading of a conflagration, the loss was held to be covered by an ordinary policy against fire. *City Fire Ins. Co. of N. Y. v. Corlies*, 21 Wend. 367.

JURISDICTION—EXCESS OF—LIABILITY OF INFERIOR JUDGE.—RUSH v. BUCKLEY, 61 ATL. 774, (ME.).—Where a judge of an inferior court has jurisdiction over the general subject matter of an alleged offense, if he acts in good faith, he will not be liable in damages for an erroneous decision. Emery, J., *dissenting*.

It is universally conceded that when inferior courts and judicial officers act without jurisdiction the law can give them no protection whatever. *Cooley on Torts*, p. 489. A rather odd reason is that given in *Bishop Non-Contract Law*, Sec. 783; "those judges who receive a small salary should not be compelled to respond in damages for honest mistakes." The leading American case held in a *dictum* that if the want of jurisdiction were known there could be no exemption from damages of the judge in an inferior court. *Bradley v. Fisher*, 13 Wall. 335. Many English cases assert the total exemption of a judge of record from responsibility or accountability in any way except to the King. *Milter v. Sears*, 2 W. Bl. 1141. The American opinions seem to be about evenly divided as to the liability of an inferior judge for judgment under an unconstitutional statute. *Kelly v. Bemis*, 70 Mass. 83; *Allen v. Gray*; 11 Conn. 95; *Trescott v. Waterloo*, 26 Fed. 592. In Texas the latter question has been regulated by statute. *Sersumas v. Both*, 34 Tex. 335. An honest purpose would not protect the judge if entirely without authority of law. *Truesdell v. Combs*, 33 Ohio, St. 186. The distinction between *prima facie* total want of jurisdiction and *bona fide* error is well shown in *Robertson v. Parker*, 99 Wis. 652.

LANDLORD AND TENANT—DANGEROUS PREMISES—INJURY TO LICENSEE.—ROSS v. JACKSON, 51 S. E. 578 (GA.).—*Held*, that a landlord is liable to one lawfully present on the rented premises by invitation of the tenant for injuries

arising from defective construction, or from failure to keep the premises in repair, where the defect is known to the landlord, or in the exercise of reasonable diligence could have been known, and the injured person was himself in the exercise of due care.

Ordinarily there is no warranty on the part of the lessor that the premises are in good condition and the rule of *caveat emptor* applies. *Hill v. Woodman*, 14 Me. 38. But by letting the premises with some latent defect in them, such as structural weakness or decay, the landlord impliedly authorizes the continuance of the nuisance and is liable. *Ahern v. State*, 115 N. Y. 203; *Cowen v. Sunderland*, 145 Mass. 363. Furthermore, the liability of the landlord extends to injuries sustained by one socially calling on the tenant as well as to the tenant himself. *Henkel v. Muir*, 31 Hun (N. Y.) 28. In such cases the courts have never drawn any line between a person present for business and one present for pleasure. *Campbell v. Portland Sugar Co.*, 62 Me., 562. However, if the premises are in good repair when demised, but afterward become ruinous and dangerous, the landlord is not responsible, therefore, either to the occupant or the public. *Clancy v. Byrne*, 56 N. Y. 129.

MUNICIPAL CORPORATIONS—DEFECTIVE SIDEWALK—DUTIES OF TRAVELER.—IDLETT V. CITY OF ATLANTA, 51 S. E. (GA.) 709.—*Held*, that ordinary diligence on the part of a person passing along a sidewalk of a public street of a municipal corporation, and ordinary diligence on the part of the corporation in constructing and repairing the sidewalk, do not imply a like degree of vigilance in foreseeing danger and guarding against it.

Corporations have made strenuous efforts to establish the rule that knowledge of a defect in and subsequent user of a walk would estop a person injured from claiming damages. *Jones Neg. Mun. Corp.* sec. 221. But this is not the law. Ordinarily, as the laying out of the way has established its legal necessity, the mere fact that one knowing of a defect passes over it will not defeat his claim should he suffer harm. *Samples v. City of Atlanta*, 95 Ga. 110. A person, although knowing a walk is defective, may still use it if his act in so doing is reasonably prudent. *City of Emporia v. Schmedling*, 33 Kan. 485. Knowledge of danger is not negligence *per se*. *4 Am. & Eng. Ency. of Law*, p. 35. Knowlege of the danger is never conclusive evidence of negligence, but it is a question to be submitted to the jury. *Smith v. City of St. Joseph*, 45 Mo. 449. However, if the danger arising from a defect in a street or highway is obviously of such a character that no person in the exercise of ordinary prudence would attempt to pass over the same, or, in other words, if such attempt would of itself plainly and unequivocally amount to a want of ordinary care and diligence, the court may so instruct the jury as a matter of law. *Samples v. City of Atlanta*, 95 Ga. 110.

NAVIGABLE WATERS—RIGHT OF UPLAND OWNER TO REACH.—CONDERT ET AL V. UNDERHILL ET AL, 95 N. Y. SUPP. 134.—*Held*, that an owner of upland has no right to trespass on the land of another for the purpose of reaching the navigable waters beyond.

Where the fee of land between high and low water mark is in the state, an erection of a wharf or pier by an upland proprietor upon this land is not a trespass and will not be disturbed except in case it become a public nuisance. *Commonwealth v. Wright*, 3 Am. Jurist 185. In the present case the fee of the share by an ancient grant rested in a municipal corporation. That a permanent dock erected by an upland proprietor on such land under water is a